

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 339 be amended to read as follows:

- 1 Page 1, line 3, after "Sec. 18.5." insert **"(a)"**.
- 2 Page 1, line 6, after "445110," insert **"445299 (gourmet food**
- 3 **stores),"**.
- 4 Page 1, between lines 14 and 15, begin a new paragraph and
- 5 insert:
- 6 **"(b) The term does not include a store or part of a store that**
- 7 **has the primary North American Industry Classification System**
- 8 **(NAICS) classification 447190."**
- 9 Page 2, line 14, delete "Liquor" and insert **"Except as provided**
- 10 **in subsection (d), liquor"**.
- 11 Page 2, line 14, delete "separated from the" and insert **."**.
- 12 Page 2, line 15, delete "area where nonalcoholic retail
- 13 merchandise is displayed."
- 14 Page 2, line 17, delete "The designated area".
- 15 Page 2, delete lines 18 through 21, begin a new paragraph and
- 16 insert:
- 17 **"(d) The holder of a liquor dealer's permit is not required to**
- 18 **comply with subsection (c) if the holder of the liquor dealer's**
- 19 **permit uses at least one (1) of the following security measures:**
- 20 **(1) The liquor is displayed behind a retail counter or in a**
- 21 **locked display case.**
- 22 **(2) Each bottle of liquor for sale on the licensed premises has**
- 23 **a security cap if the bottle of liquor is capable of having a**
- 24 **security cap.**
- 25 **(3) The liquor is displayed adjacent to a drug store counter.**
- 26 **(4) The area in which the liquor is displayed is under video**
- 27 **surveillance."**
- 28 Page 2, line 22, delete "(d)" and insert **"(e)"**
- 29 Page 2, line 31, delete "(e)" and insert **"(f)"**.
- 30 Page 2, between lines 36 and 37, begin a new paragraph and
- 31 insert:
- 32 **"SECTION 4. IC 7.1-3-19-10.5 IS ADDED TO THE INDIANA**

1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. (a) Upon application for a**  
3 **new permit or transfer of a location of an existing permit, the**  
4 **commission shall investigate the desirability of the permit in**  
5 **regard to the potential geographical location of the permit.**

6 **(b) In investigating the desirability of the permit under**  
7 **subsection (a), the commission may consider the following:**

8 **(1) The need for the services at the requested location of the**  
9 **permit.**

10 **(2) The desire of the neighborhood or the community to**  
11 **receive the services.**

12 **(3) The impact of the services on other business in the**  
13 **neighborhood or community.**

14 **(4) The impact of the services on the neighborhood or**  
15 **community.**

16 SECTION 5. IC 7.1-3-21-3, AS AMENDED BY P.L.165-2006,  
17 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2007]: Sec. 3. The commission shall not issue:

19 (1) an alcoholic beverage retailer's ~~or dealer's~~ permit of any type;  
20 or

21 (2) a liquor wholesaler's permit;

22 to a person who has not been a continuous and bona fide resident of  
23 Indiana for five (5) years immediately preceding the date of the  
24 application for a permit.

25 SECTION 6. IC 7.1-3-21-4, AS AMENDED BY P.L.165-2006,  
26 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2007]: Sec. 4. The commission shall not issue:

28 (1) a liquor wholesaler's permit; or

29 (2) an alcoholic beverage retailer's ~~or dealer's~~ permit;

30 of any type to a partnership unless each member of the partnership  
31 possesses the same qualifications as those required of an individual  
32 applicant for that particular type of permit.

33 SECTION 7. IC 7.1-3-21-5, AS AMENDED BY P.L.165-2006,  
34 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2007]: Sec. 5. (a) The commission shall not issue:

36 (1) an alcoholic beverage retailer's ~~or dealer's~~ permit of any type;  
37 or

38 (2) a liquor wholesaler's permit;

39 to a corporation unless sixty percent (60%) of the outstanding common  
40 stock is owned by persons who have been continuous and bona fide  
41 residents of Indiana for five (5) years.

42 (b) The commission shall not issue a liquor wholesaler's permit to  
43 a corporation unless at least one (1) of the stockholders shall have been  
44 a resident, for at least one (1) year immediately prior to making  
45 application for the permit, of the county in which the licensed premises  
46 are to be situated.

47 (c) Each officer and stockholder of a corporation shall possess all  
48 other qualifications required of an individual applicant for that  
49 particular type of permit.

50 SECTION 8. IC 7.1-3-21-5.2, AS AMENDED BY P.L.165-2006,  
51 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
52 JULY 1, 2007]: Sec. 5.2. (a) The commission shall not issue:

(1) an alcoholic beverage retailer's ~~or dealer's~~ permit of any type;  
or

(2) a liquor wholesaler's permit;  
to a limited partnership unless at least sixty percent (60%) of the  
partnership interest is owned by persons who have been continuous and  
bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to  
a limited partnership unless for at least one (1) year immediately before  
making application for the permit, at least one (1) of the persons having  
a partnership interest has been a resident of the county in which the  
licensed premises are to be situated.

(c) Each general partner and limited partner of a limited  
partnership must possess all other qualifications required of an  
individual applicant for that particular type of permit.

SECTION 9. IC 7.1-3-21-5.4, AS AMENDED BY P.L.165-2006,  
SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2007]: Sec. 5.4. (a) The commission shall not issue:

(1) an alcoholic beverage retailer's ~~or dealer's~~ permit of any type;  
or

(2) a liquor wholesaler's permit;  
to a limited liability company unless at least sixty percent (60%) of the  
membership interest is owned by persons who have been continuous  
and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to  
a limited liability company unless for at least one (1) year immediately  
before making application for the permit, at least one (1) of the persons  
having a membership interest has been a resident of the county in  
which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must  
possess all other qualifications required of an individual applicant for  
that particular type of permit.

SECTION 10. IC 7.1-3-21-6 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The provisions  
of sections 4, 5, 5.2, and 5.4 of this chapter concerning retail ~~and dealer~~  
partnerships, corporations, limited partnerships, and limited liability  
companies shall not apply to the issuance of:

(1) a dining car permit;

(2) ~~a~~ boat permit;

(3) ~~a~~ drug store permit;

(4) ~~a~~ grocery store permit;

(5) ~~a~~ hotel permit;

(6) ~~an~~ airplane permit;

(7) an excursion and adjacent landsite permit;

(8) a horse track permit;

(9) a satellite facility permit; or

(10) a retail permit to an establishment:

(A) that is sufficiently served by adequate law enforcement  
at its permit location; and

(B) whose annual gross food sales at the permit location:

(i) exceed one hundred thousand dollars (\$100,000); or

1 (ii) in the case of a new application and as proved by  
 2 the applicant to the local board and the commission,  
 3 will exceed two hundred thousand dollars (\$200,000)  
 4 by the end of the two (2) year period from the date of  
 5 the issuance of the permit.

6 (b) The commission shall not issue a permit listed in subsection (a)  
 7 to a foreign:

- 8 (1) corporation;
- 9 (2) limited partnership; or
- 10 (3) limited liability company;

11 that is not duly qualified to do business in Indiana."

12 Page 2, delete lines 37 through 42, begin a new paragraph and  
 13 insert:

14 "SECTION 11. IC 7.1-3-22-4 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~Dealers' Permits~~

16 ~~Limited:~~ (a) The commission may grant: ~~only~~

17 (1) one (1) beer dealer's permit in an:

18 (A) incorporated city or town that has a population of  
 19 less than fifteen thousand one (15,001); or

20 (B) unincorporated town;

21 for each one thousand five hundred (1,500) persons, or  
 22 fraction thereof, within the incorporated city or town  
 23 described in clause (A) or the unincorporated town;

24 (2) in an incorporated city or town that has a population of  
 25 more than fifteen thousand (15,000) but less than eighty  
 26 thousand (80,000):

27 (A) one (1) beer dealer's permit for each three thousand  
 28 (3,000) persons, or a fraction thereof; or

29 (B) ten (10) beer dealer's permits;

30 whichever is greater, within the incorporated city or town;

31 (3) in an incorporated city or town that has a population of  
 32 at least eighty thousand (80,000):

33 (A) one (1) beer dealer's permit for each five thousand  
 34 (5,000) persons, or a fraction thereof; or

35 (B) twenty-seven (27) beer dealer's permits;

36 whichever is greater, within the incorporated city or town;".

37 Page 3, line 1, delete "unincorporated town;".

38 Page 3, line 2, delete "(2)" and insert "(4) one (1)".

39 Page 3, line 7, delete "or liquor dealer's permit".

40 Page 3, line 8, delete "or liquor dealer".

41 Page 3, delete lines 12 through 37.

42 Page 5, after line 12, begin a new paragraph and insert:

43 "(d) All civil penalties collected under this section shall be  
 44 deposited in the alcohol and tobacco commission's enforcement  
 45 and administration fund under IC 7.1-4-10."

46 Renumber all SECTIONS consecutively.

(Reference is to SB 339 as printed February 23, 2007.)

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Senator RIEGSECKER